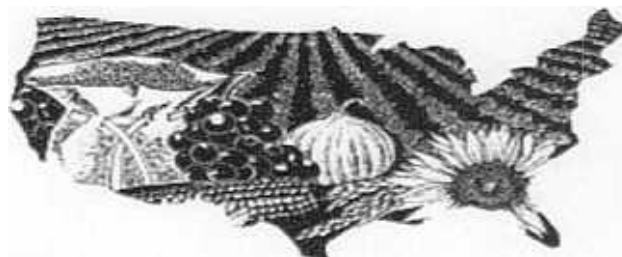


COMPLIANCE NEWS

January 2005

Administrative Letter for Marketing Order Administration Branch Compliance Program
www.ams.usda.gov/fv/moab.html



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Greetings

Happy New Year and Welcome to the first issue of Compliance News 2005! This issue will cover compliance activities from May 2004 through December 2004.

Thank you for reading *Compliance News* and as always, we look forward to working with you on all Marketing Order and Section 8e related compliance issues.

- MOAB Compliance Team

News

Compliance Team Manager Retires

After 37 years of service, **Barbara Schulke** has retired. She began working with USDA right out of high school and has served the Department in numerous capacities: Secretary, Compliance Investigator and Compliance Manager just to name a few. Barbara has been the catalyst for the many compliance team successes over the years and in a few words has made quite a difference to the team. She is currently taking time to travel the States and spend time with friends and family. Please join us in wishing Barbara well!

New Manager Hired

We are pleased to announce that **Jared Burnett** has been selected as the new Compliance Team Manager for the Marketing Order Administration Branch. Jared started his new position on January 10, 2005.

Jared comes to MOAB with an extensive compliance and investigation background in the Risk Management Agency (RMA). For the last two years, he has served in FSA's Non-Insurance Assistance Branch overseeing program development and integrity. Previously he served as a compliance investigator for 6 ½ years in the Dallas, Texas RMA office. Jared was raised on his family's livestock operation in New Mexico, and received his BA in Marketing and Agricultural Business from New Mexico State University, Las Cruces. Please join us in welcoming Jared to MOAB!

More Compliance Team Personnel Changes

We are also pleased to announce the selection of **Robert Connors** for the new position of Auditor on the Compliance Team. Robert will be responsible for developing and implementing improvements to our marketing order committee operations as they relate to internal controls and financial procedures. He will establish and lead an ongoing series of marketing order committee audits, and provide training and support to both committee staff and MOAB personnel in carrying out their financial oversight responsibilities.

Robert most recently worked with the National Oceanographic and Atmospheric Administration (NOAA) within the U.S. Department of Commerce, where he was responsible for overseeing Office of Inspector General audits and General Accounting Office reviews conducted at NOAA. He received his Business / Accounting degree from the University of Maryland, and is a Certified Public Accountant. Please join us in welcoming Robert to our team as well.

Last but not least, **Timothy Swainhart**, Senior Marketing Specialist with the Compliance Team retired January 31, 2005. Tim has worked with the Team since 2003 and in his short tenure with the Team he has made a great contribution and will be greatly missed. Congratulations Tim and keep in touch!

Meetings Meetings Meetings

On February 7-11, 2005, AMS Fruit and Vegetable Programs plans to hold its next marketing order management team meeting in Tampa, FL. The retreat will provide the first opportunity for managers to meet with the three newest appointees in MOAB: Compliance Team Manager, Rulemaking Team Manager, and Auditor to chart a new course for the branch. Branch business will be conducted on February 8-9, followed by a tour of local agricultural production, packing, processing and marketing operations. This will likely include tomato production and packing, strawberry production and packing, and possibly citrus juice processing. Manager networking and informal discussions will occur throughout the tour as well.

On January 27, 2005, AMS Fruit and Vegetable Programs officials and marketing order managers and auditors will attend a Vidalia Onion Committee meeting in Vidalia, GA. They answered questions and heard a report from the accounting firm Carmichael, Brasher, Tuvell and Company on the firm's reconstruction of the Committee's financial books for the period 1996-2004. AMS commissioned the report last year when allegations of the possible embezzlement of Committee funds first surfaced. To date, civil and criminal charges have been filed against the former manager, and the final outcome of these charges is expected soon.

On September 28-29, 2004, the Marketing Order Administration Branch hosted a 3-day conference for managers and chairpersons in San Antonio, Texas. In addition to featured speaker Administrator Yates, the estimated 125 attendees participated in a variety of workshops and presentations. Some of the topics covered include upcoming changes in fresh inspection, constitutional challenges and emerging trends in marketing order programs. The recently revised compliance manual was distributed at the conference. If you by some chance, did not receive one, please give us a call and we will get one out to you immediately.

Synopsis of Compliance Team Activity

A brief synopsis of Compliance Team activities from May – December 2004 is as follows: resolved and closed five marketing order cases, approved 13 compliance plans, referred one case for administrative adjudication and received two civil penalties.

Marketing Order Compliance

Civil Penalties Paid

Two onion handlers recently paid civil penalties for violating requirements under the **Marketing Order for Onions grown in Designated Counties in Idaho, and Malheur County, Oregon**. One handler agreed to a consent decision and order as settlement and paid a civil penalty of \$4,000 to settle the complaint for allegations of shipping uninspected onions. Another handler also agreed to pay a civil penalty and sign a stipulation agreement admitting the violations of the order in lieu of a formal administrative proceeding for failing to obtain an inspection, paying assessments, and filing reports in accordance with the marketing order regulations.

We also recently received payment of a civil penalty in the amount of \$11,500 from a Florida citrus handler. This handler violated the **Marketing Order for Oranges, Grapefruit, Tangerines, and Tangelo grown in Florida** by shipping grapefruit in excess of its allotment 14 times over a 22-week period during the 2003-04 Fiscal season.

Complaint Filed

Complaints were also filed against two California date handlers for allegedly violating the federal marketing order for dates grown in Riverside County, California. They handled a collective 8400 pounds of dates without having them inspected, a violation of Section 987.41(a) of the marketing order.

Hearing Set for California Raisin Handler

A hearing has been set for February 8-17 in Fresno, CA, to receive evidence on an administrative complaint against Marvin Horne and Laura Horne, doing business as Raisin Valley Farms, of Kerman, California, a handler of California raisins. The Hornes are charged with violating the raisin marketing order during the 2002-04 crop years. Violations include failure to obtain incoming inspection, failure to hold the required quantities of raisins in reserve, failure to pay their pro rata share of committee expenses, failure to file accurate reports, and failure to allow access to their records, even after being subpoenaed to provide such access. If USDA proves the allegations, the Hornes can be ordered to pay civil penalties of up to \$1,100 per day for each day of violation. Additionally, the raisin marketing order provides that a handler who fails to deliver reserve tonnage raisins to the Committee shall compensate the Committee for the value of that tonnage, which is computed by using the average price per ton received by producers during the applicable crop year.

Ugly Ripe Exemptions End

Under a registered trademark, UglyRipe tomatoes are shaped differently from traditional tomatoes and, as a result, have difficulty meeting U.S. No. 2 grade and marketing order requirements. The Committee agreed to grant temporary exemptions for three consecutive years in order to provide time for the Committee to study whether or not these tomatoes competed with traditional tomatoes produced in Florida. While the exemptions were in effect, UglyRipe tomatoes did not have to meet the minimum quality requirements specified by the order. After 3 years of temporary exemptions, the Committee met on December 5, 2003, and voted not to grant another one-year exemption.

Dried Prune Regulation Suspended

The inspection and quality requirements for California and imported dried prunes shipped into commercial marketing channels have been suspended for three years. The suspension of the requirements for California dried prunes was recommended by the Prune Marketing Committee. The Committee is implementing the suspension to relieve the industry of these requirements while the industry considers developing and implementing inspection and grade standards more consistent with current industry needs.

MOAB Compliance Team
1400 Independence Ave., SW
Room 2525-S, Stop Mail 0237
Washington, DC 20250-0237

Phone:
(202) 690-0464

Fax:
(202) 720-5698

E-mail:
JaredK.Burnett@usda.gov

*We strive to continue our
goal of providing quality
customer service.*



Section 8e Compliance

Training

The AMS Fresh Inspection Staff is currently conducting their routine 10-week New Inspector Training Class in Fredericksburg, VA. The class is designed to familiarize participants with policies and procedures for inspecting a myriad of fresh produce. Tammie Wilburn will present the 8e Training to the class on February 3. Also, please visit the website soon for a listing of our upcoming Section 8e presentations!

Did You Know?

Did you know that the Export Apple Act of 1933 (7 U.S.C. 581-590) and the Export Grape and Plum Act of 1960 (7 U.S.C. 591-590) promote foreign trade of U.S. grown apples, grapes and plums. These Acts protect the reputation of U.S. grown fruit in foreign markets by preventing deception and misrepresentation of quality and by requiring inspection to prevent the export of low quality fruit. The Acts prohibit shipment to any foreign destination in packages not accompanied by a certificate issued under authority of the Secretary of Agriculture. Disciplinary action for violations may consist of withholding certificates for periods not to exceed 90 days or fines ranging from \$100 to \$10,000. Just thought you would like to know.

Who Are We? What Do We Do?

Our team's two main responsibilities include marketing order compliance and compliance for all imported commodities regulated by Section 8e of the Agricultural Marketing Agreement Act of 1937. Specifically, the team directs and coordinate all Branch compliance and litigation activities, including committee compliance plans, 8e compliance actions, fines, and administrative penalties, 15(A) petitions, Export Fruit Act cases, Potato Spot-check Program concerns, as well as, conducts compliance and administrative reviews of marketing order committees.

Currently, we have a staff of six: Jared Burnett, Compliance Team Manager; Richard Lower, Senior Marketing Specialist, Robert Connors, Auditor, Tammie Wilburn, Marketing Specialist, Kesha Walton, Marketing Specialist, and Karen Chaney, Program Assistant.

8e Import Data Summaries

The remainder of this newsletter summarizes 8e import data, which is reported for the time period May 2004 through October 2004.

Avocados**Port of Entry**

	2003 (JAN-OCT)	2004 (JAN-OCT)
LOS ANGELES, CA	36.7%	40.4%
CHICAGO, IL	9.1%	12.2%
NEWARK, NJ	11.1%	11.7%
PHILADELPHIA, PA	8.9%	11.0%
	65.8%	75.3%

Country of Origin

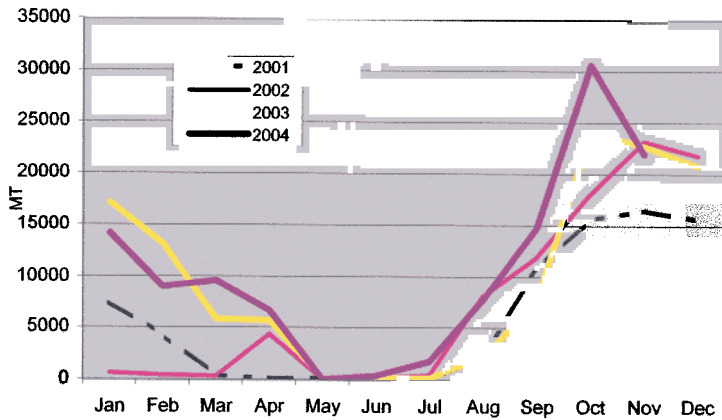
	2003 (JAN-OCT)	2004 (JAN-OCT)
CHILE	60.3%	46.0%
MEXICO	30.8%	40.9%
DOMINICAN REPUBLIC	8.6%	12.6%
	99.7%	99.5%

Total Imported

Metric Tons	30,497	23,402
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Marketing Order Period

By Variety

**Dates****Port of Entry**

	2003 (JAN-OCT)	2004 (JAN-OCT)
MINNEAPOLIS-ST. PAUL, MN	55.8%	42.8%
NEWARK, NJ	13.4%	23.0%
LOS ANGELES, CA	9.9%	14.2%
CHICAGO, IL	3.4%	9.1%
	82.6%	89.1%

Country of Origin

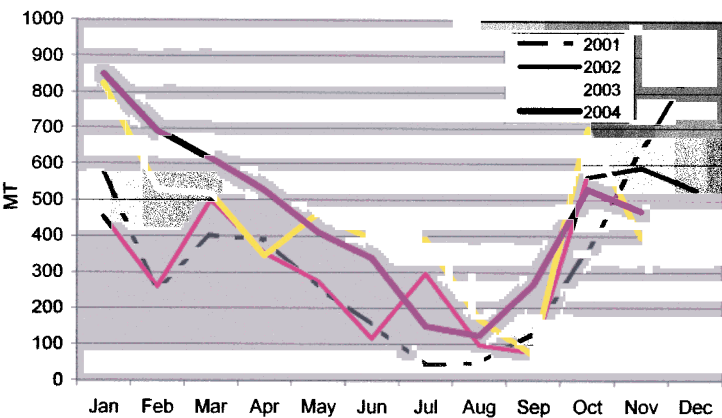
	2003 (JAN-OCT)	2004 (JAN-OCT)
PAKISTAN	63.5%	46.3%
IRAN	10.6%	25.3%
CHINA	12.2%	9.1%
	86.4%	80.8%

Total Imported

Metric Tons	358
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Marketing Order Period

All Year

**Grapefruit****Port of Entry**

	2003 (JAN-OCT)	2004 (JAN-OCT)
FORT PIERCE, FL	98.2%	91.4%
WEST PALM BEACH, FL	0.0%	5.2%
HIDALGO, TX	1.6%	2.6%
LOS ANGELES, CA	0.0%	0.4%
	99.7%	99.5%

Country of Origin

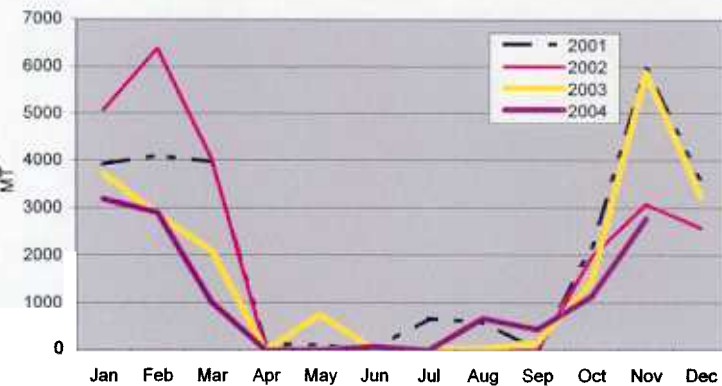
	2003 (JAN-OCT)	2004 (JAN-OCT)
BAHAMAS	98.2%	96.6%
MEXICO	1.6%	3.0%
CANADA	0.2%	0.3%
	99.9%	99.8%

Total Imported

Metric Tons	6,608	6,117
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Marketing Order Period

All Year



Hazelnuts/Filberts**Port of Entry**

	2003 (JAN-OCT)	2004 (JAN-OCT)
NEWARK, NJ	57.6%	40.5%
NEWPORT NEWS, VA	14.4%	29.5%
NEW YORK, NY	13.8%	25.5%
LOS ANGELES, CA	1.5%	2.2%
	87.2%	97.8%

Country of Origin

	2003 (JAN-OCT)	2004 (JAN-OCT)
TURKEY	99.4%	99.7%
CANADA	0.0%	0.2%
ITALY	0.6%	0.1%
		99.9%

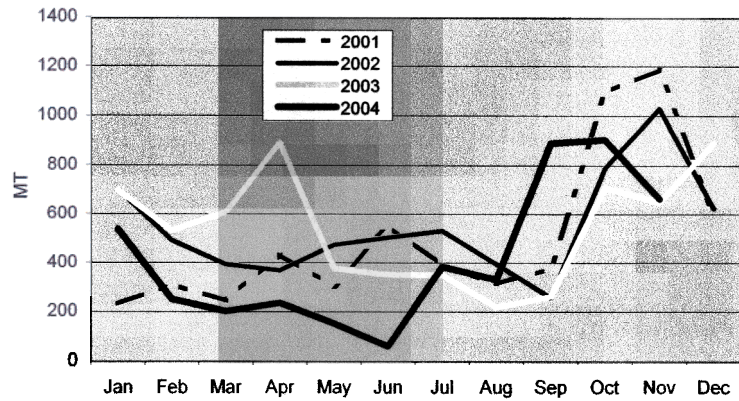
Total Imported

Metric Tons

797

Marketing Order Period

All Year

**Kiwifruit****Port of Entry**

	2003 (JAN-OCT)	2004 (JAN-OCT)
PHILADELPHIA, PA	35.0%	49.1%
LOS ANGELES, CA	38.0%	37.4%
NEWARK, NJ	2.0%	8.2%
WILMINGTON, DE	22.8%	3.9%
	97.8%	98.7%

Country of Origin

	2003 (JAN-OCT)	2004 (JAN-OCT)
CHILE	59.3%	48.2%
NEW ZEALAND	33.3%	40.4%
ITALY	5.5%	9.8%
	98.1%	98.3%

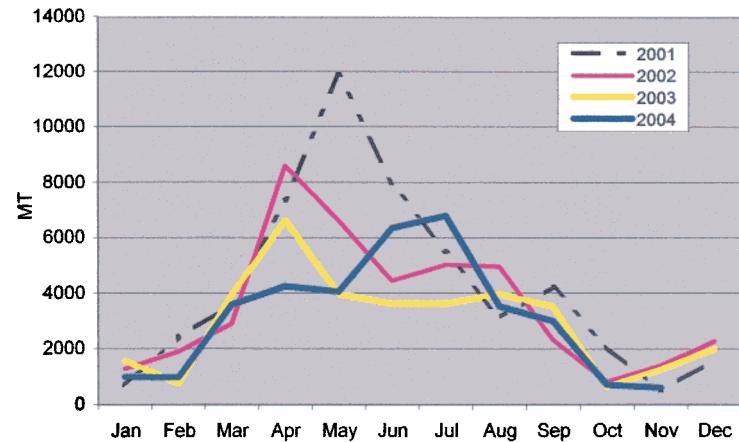
Total Imported

Metric Tons

2,024

Marketing Order Period

All Year

**Olives****Port of Entry**

	2003 (JAN-OCT)	2004 (JAN-OCT)
BALTIMORE, MD	21.8%	24.5%
NEWARK, NJ	19.6%	23.3%
HOUSTON, TX	13.3%	12.9%
CHARLESTON, SC	6.8%	9.1%
	61.6%	69.8%

Country of Origin

	2003 (JAN-OCT)	2004 (JAN-OCT)
SPAIN	65.9%	52.5%
MOROCCO	27.4%	38.3%
ARGENTINA	0.9%	5.0%
	94.2%	95.7%

Total Imported

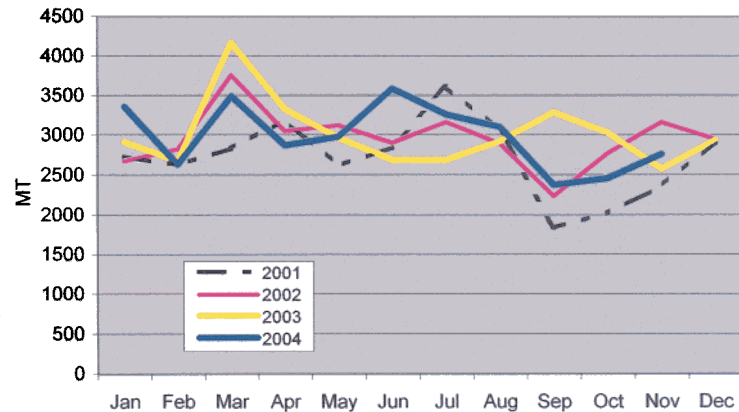
Metric Tons

5,609

6,005

Marketing Order Period

All Year



Onions*

*Onion import data includes green onion volumes (non-8e) due to use of same tariff Code

Port of Entry

	2003 (JAN-OCT)	2004 (JAN-OCT)
HIDALGO, TX	37.3%	36.0%
CALEXICO (EAST), CA	18.3%	20.3%
SAN LUIS, AZ	6.1%	6.6%
OTEE MESA STATION, CA	7.5%	5.4%
	69.3%	68.2%

Country of Origin

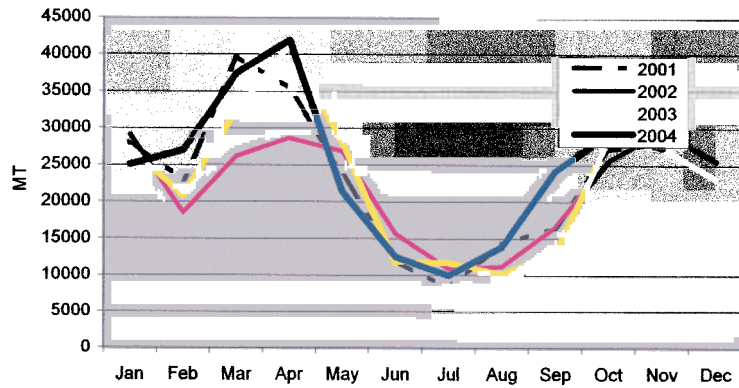
	2003 (JAN-OCT)	2004 (JAN-OCT)
MEXICO	75.8%	75.3%
CANADA	12.6%	13.5%
PERU	3.3%	4.9%
	91.8%	93.7%

Total Imported

Metric Tons	48,205	52,367
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Marketing Order Period

All Year

**Oranges****Port of Entry**

	2003 (JAN-OCT)	2004 (JAN-OCT)
PHILADELPHIA, PA	39.0%	37.7%
SAN DIEGO, CA	40.1%	34.9%
NOGALES, AZ	9.8%	18.6%
NEWARK, NJ	1.5%	2.1%
	90.4%	93.3%

Country of Origin

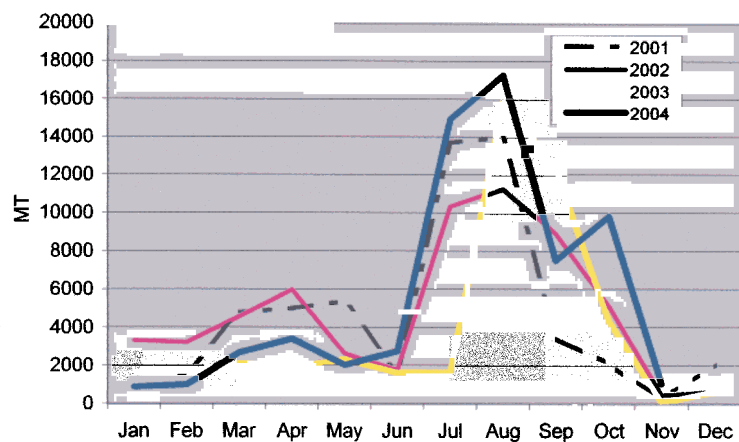
	2003 (JAN-OCT)	2004 (JAN-OCT)
MEXICO	39.0%	37.8%
AUSTRALIA	41.2%	36.4%
#REF!	10.2%	18.6%
	90.4%	92.8%

Total Imported

Metric Tons	3,405	,952
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Marketing Order Period

Sep 1 - Jun 30

**Potatoes****Port of Entry**

	2003 (JAN-OCT)	2004 (JAN-OCT)
HOULTON, ME	27.8%	25.8%
BUFFALO-NIAGARA FALLS, NY	15.0%	18.8%
CALAIS, ME	13.8%	15.8%
SAN JUAN, PR	13.0%	12.0%
	69.6%	72.4%

Country of Origin

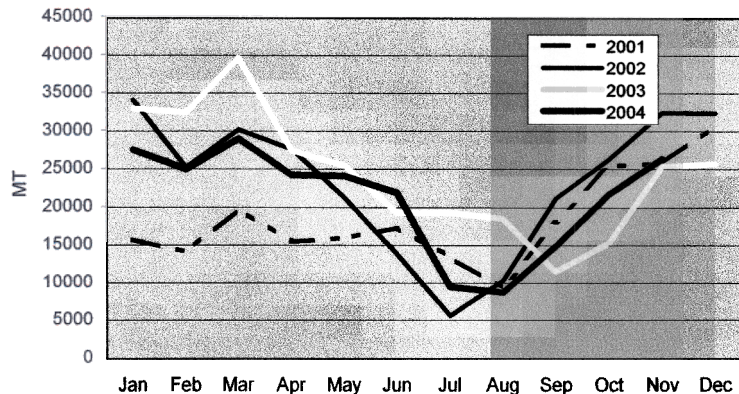
	2003 (JAN-OCT)	2004 (JAN-OCT)
CANADA	99.99%	99.87%
BRAZIL	0.000%	0.076%
VENEZUELA	0.000%	0.000%
	99.99%	99.95%

Total Imported

Metric Tons	65,721	52,701
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Marketing Order Period

All Year



Raisins**Port of Entry**

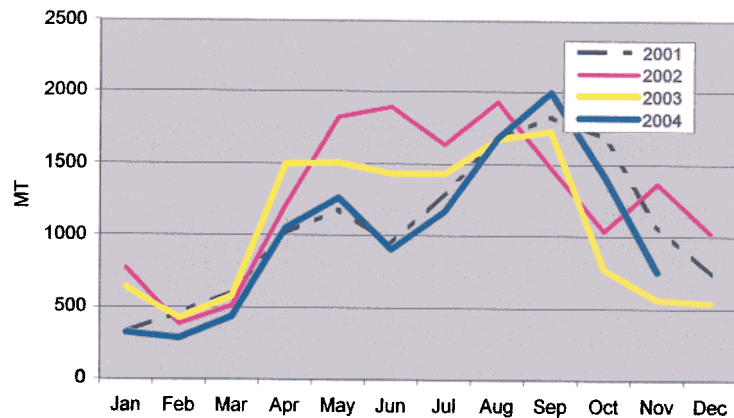
	2003 (JAN-OCT)	2004 (JAN-OCT)
NEWARK, NJ	35.7%	34.6%
NOGALES, AZ	18.8%	24.8%
NORFOLK, VA	10.8%	19.3%
NEW YORK, NY	10.8%	5.7%
	76.0%	

Country of Origin

	2003 (JAN-OCT)	2004 (JAN-OCT)
CHILE	64.0%	55.2%
MEXICO	18.8%	24.9%
ARGENTINA	1.8%	8.4%
	84.6%	88.5%

Total Imported

Metric Tons	1,073	620
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Marketing Order Period

All Year

Table Grapes**Port of Entry**

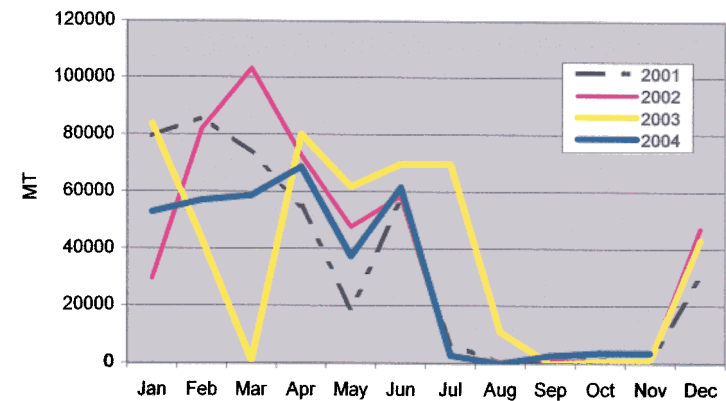
	2003 (JAN-OCT)	2004 (JAN-OCT)
PHILADELPHIA, PA	24.8%	40.5%
NOGALES, AZ	47.2%	29.4%
WILMINGTON, DE	14.3%	22.1%
LOS ANGELES, CA	10.5%	5.7%

Country of Origin

	2003 (JAN-OCT)	2004 (JAN-OCT)
CHILE	50.2%	68.1%
MEXICO	48.8%	30.4%
CANADA	0.1%	0.7%

Total Imported

Metric Tons	127,709	110,434
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Marketing Order Period

Apr 20 - Aug 15

Tomatoes*

*Tomato import data includes hot house volumes (non-8e) due to use of same tariff Code

Port of Entry

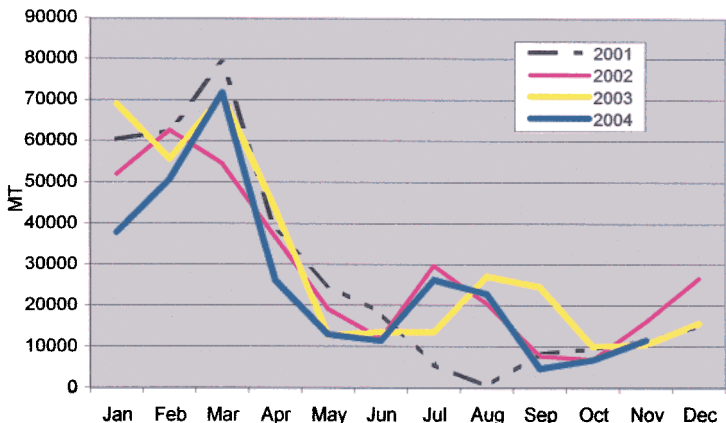
	2003 (JAN-OCT)	2004 (JAN-OCT)
NOGALES, AZ	74.6%	73.1%
OTAY MESA STATION, CA	20.3%	23.7%
HIDALGO, TX	1.3%	1.3%
BUFFALO-NIAGRA FALLS, NY	0.2%	0.5%

Country of Origin

	2003 (JAN-OCT)	2004 (JAN-OCT)
MEXICO	96.4%	98.1%
CANADA	2.2%	1.4%
NETHERLANDS	1.0%	0.2%

Total Imported

Metric Tons	125,008	88,949
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Marketing Order Period

Oct 10 - Jun 15